

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 12472 by Joe Groth to Appropriate Water from Clover Swale Tributary to Pit River in Modoc County for Irrigation Purposes.

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Decision A. 12472 D. 639

Decided December 27, 1949

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 18 AND 20, 1949:

Joe Groth	Applicant,
Lee Wright	Protestant,
J. V. Scammon	Assistant Hydraulic Engineer and
L. C. Jopson	Supervising Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer.

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OPINION

General Description of the Project

The application proposes an appropriation for diversion to temporary storage and later application to beneficial use of 77 acre feet per annum. The source designated is Clover Swale, a tributary of Pit River, in Modoc County. Water is to be collected between November 1 and May 1 and used for irrigation during a season extending approximately

from April 15 to July 15. The proposed place of use is located in Section 2 of T 41 N, R 10 E and in Sections 26 and 35 of T 42 N, R 10 E, M.D.B. & M. It is said to be 265 acres in extent and planted to general crops. A riparian right is claimed. The point of diversion is described as lying within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, T 42 N, R 10 E, and storage is to be effected by means of an earth dam or levee, 3 feet high and 3960 feet long. The reservoir is to have a surface area of 31 acres and a capacity of 82 acre feet. No conduit is contemplated; irrigation is to be accomplished by flooding.

Protest

The application was protested by Lee Wright who claims a right based upon use prior to December 19, 1914. His project includes a dam within Section 35 of T 42 N, R 10 E, M.D.B. & M. (downstream from the applicant's project) and the irrigation of 190 acres. He states in effect that his protest may be disregarded if the applicant will collect water only when it is not required by the protestant and will so construct his dam as to allow at least 25 cubic feet per second, when there is that much water in Clover Swale, to flow down the natural channel.

Field Investigation

The applicant and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code a field investigation was conducted at the site of the proposed appropriation on August 18 and 20, 1949 by an engineer of the Division. Both the applicant and the protestant attended the investigation.

Records Relied Upon

Application 12472 and all data and information on file therewith.

Discussion

According to the investigation there is a substantial amount of unappropriated water in the source filed upon. The flow of that source (Clover Swale) appears to be quite large in spring, when the snow melts, to fail entirely some time in June and to revive sufficiently in the fall to meet the parties' requirements for stock watering. The annual yield is estimated at 3400 acre feet as compared with an aggregate of 2130 acre feet required to satisfy prior vested rights.

The protestant agreed that unappropriated water occurs in Clover Swale and entered into an agreement with the applicant embodying safeguards desired by him in connection with the operation of the proposed reservoir. The protestant then signed a Form 23C (Division of Water Resources) formally withdrawing his protest against the application.

In view of the apparent existence of unappropriated water and the withdrawal of the only protest filed against it, it is concluded that the application should be approved, subject to the agreement dated August 20, 1949 and to the usual terms and conditions.

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ORDER

Application 12472 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12472 be approved and that a permit be issued to the applicant, subject to the agreement dated August 20, 1949 and to such of the usual

terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works
of the State of California this 27th day of December, 1949.

EDWARD HYATT, STATE ENGINEER



By A. D. Edmonston
A. D. Edmonston
Assistant State Engineer.